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PATENT

Customer No. 22,852

Attorney Docket No. 06148.0026-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Richard D. BUCHOLZ et al.) Group Art Unit: 3737
)
Serial No.: 09/832,848) Examiner: E. Mantis Mercader
)
Filed: April 12, 2001)
)
For: SURGICAL NAVIGATION)
SYSTEMS INCLUDING)
REFERENCE AND)
LOCALIZATION FRAMES)

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

**RESPONSE TO NOTICE TO FILE CORRECTED
APPLICATION PAPERS AND PETITION TO CONTEND
ALLEGED OMISSION OF A DRAWING FIGURE**

In response to the communication of June 25, 2001, Applicants submit an Abstract for filing in the above referenced application and a copy of the Notice to File Corrected Application Papers.

Furthermore, Applicants hereby petition to contend that Figure 13E, as described in the specification, was in fact submitted along with the application papers filed in the U.S. Patent and Trademark Office on April 12, 2001. Fig 13E, shown on the lower half of Drawing Sheet No. 18, appears on the same sheet as Fig. 13D. The label delineating Fig. 13E was inadvertently left off the drawing originally submitted with the application papers. A copy of Drawing Sheet No. 18, with a correction indicated in red,

LAW OFFICES

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is enclosed herein. Also enclosed is a copy of the date-stamped postcard receipt.

Applicants note the postcard receipt does not explicitly list Fig. 13E since the label for Fig. 13E was missing; however, the postcard receipt does provide evidence that Drawing Sheet No. 18, which contains Fig. 13E, was in fact included with the originally submitted application papers.

According to the fee schedule set forth in 37 C.F.R. § 1.17(i), the required fee payment of \$130.00 for consideration of this petition is enclosed herewith.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: July 24, 2001

By: 

Anthony M. Gutowski

Reg. No. 38,742

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NOTICE TO FILE CORRECTED APPLICATION PAPERS

This application has been accorded an Application Number and Filing Date. The application, however, is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given **TWO MONTHS** from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a)

The required item(s) identified below must be timely submitted to avoid abandonment:

- An abstract was not provided for this application. An abstract of the technical disclosure is required under 37 CFR 1.72(b).

The following item(s) appear to have been **omitted** from the application:

- Figure(s) **13E** described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (*37 CFR 1.17(h)*)) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (*37 CFR 1.17(h)*)) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original

[illegible]

application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

*A copy of this notice **MUST** be returned with the reply.*



Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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